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COMMITTEE AGAINST TORTURE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Second periodic reports of States parties due in 1992

Addendum

BULGARIA*

[19 June 1998]

* The initial report submitted by the Government of Bulgaria is contained in document CAT/C/5/Add.28; for its consideration by the Committee, see documents CAT/C/SR.97, 98 and 99 and Official Records of the General Assembly, Forty-seventh Session, Supplement No. 44 (A/47/44), paras. 219-243.

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Introduction

1. The initial report of the Republic of Bulgaria was considered by the Committee against Torture on 18 and 19 November 1991. Having assessed positively the report and the complementary oral explanations by the Bulgarian representative, the Committee made some remarks and suggestions which were taken into account in the preparation of the second periodic report.

2. At the outset, it should be noted that, in the years since 1992, new favourable legislative and operative conditions, in terms both of international and domestic law, have been created with regard to the application of the Convention against Torture. Thus, the Republic of Bulgaria withdrew in June 1992 its reservations as to article 30 (1) of the Convention. In May 1993 it further withdrew its reservations as to articles 21 and 22 concerning recognition of the relevant terms of reference of the Committee. Of particular importance to that end was the ratification in September 1994 and the incorporation in the Bulgarian legislation of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

3. In accordance with article 7 of the European Convention, the Republic of Bulgaria was visited, from 26 March to 7 April 1995, by a delegation of the European Committee for the Prevention of Torture (CPT). The delegation reviewed units of the National Police and of the National Investigative Service, detention facilities and mental institutions. Consultations were held with State agencies and non-governmental organizations (NGOs). In a detailed report of 15 September 1995, the CPT described instances of torture established by the delegation during the visit. These cases related mainly to ill-treatment by the police of persons suspected of criminal activities and on rare occasions, by the prison administration with regard to physical and mental torture of detainees. The report suggests various general and specific measures aimed at preventing torture in detention facilities The Bulgarian Government presented two official replies to the CPT report. The first one dealt with the initial actions and the other one with the additional measures to address the CPT recommendations, comments and requests for information. The CPT stressed the constructive cooperation with the Bulgarian authorities. The latter addressed with due attention and concern the findings, conclusions and recommendations made by the delegation. The follow-up, in the form of prompt and efficient measures, proves the resolute determination of the authorities to prevent all forms of degrading and inhuman treatment of citizens by officials.

I. INFORMATION ON TEXTS IN THE FIRST PART OF THE CONVENTION AGAINST TORTURE, ACCORDING TO THE QUESTIONS, REMARKS AND REQUESTS OF THE COMMITTEE

Article 2

4. In the Republic of Bulgaria, since 1992, a number of new normative acts have been adopted while the existing ones have been amended and supplemented. Thus, greater legal guarantees were provided for protection of the rights of citizens and, in particular, for attainment of the objectives of the Convention. *It is worth mentioning the Judiciary* Act of 1994, the Ministry

of the Interior Act of 1997 and Ordinance No. 12 (1993) of the Minister of Justice on the Situation of Persons Held in Detention Facilities. It should be emphasized that amendments made to the penal legislation in force are in line with the recommendations of the Committee.

5. Life imprisonment was introduced in the Penal Code whose enforcement is regulated by the Punishment Enforcement Act. The idea is that this punishment supersedes the death penalty, which is to be eliminated. The presence of both at the moment is justified as a legal and political prerequisite for overcoming, more flexibly and smoothly, the prevailing public attitude against abolition of capital punishment. As a result of the moratorium imposed on executions in 1990, no death sentence has been enforced for the last seven years. Capital punishment is not envisaged as a part of the penal system in either of the existing drafts of a new Penal Code. In this sense, the question is not whether capital punishment is to be abolished in Bulgaria, but when.

6. As for the regime of those sentenced to death and life imprisonment, there are regulations for protective penitentiary treatment under conditions of strict isolation. More favourable living and working conditions are envisaged for them, in particular: unrestricted correspondence; opportunity to receive two food parcels and 30 packs of cigarettes per month; monthly visits by relatives; money transfers for meeting personal needs; daily one-hour stays in the open air; opportunity to receive newspapers, books and magazines in Bulgarian and foreign languages; opportunity to meet media representatives, etc.

7. The crime of extortion (known also by the popular name of "racketeering") includes threats and coercion and infliction of property damages on the victim. This crime presupposes higher liability in cases when the coercive act is committed by an official or in connection with the discharge of his/her official duties.

8. The initial report did not make mention of the existence of a crime under the Penal Code (art. 127 (3)) which relates to the Convention. It concerns leading a person to committing suicide through cruel treatment or systematic abasement of his dignity. An objective prerequisite for liability is the circumstance that the victim finds himself/herself in material or other dependence upon the perpetrator (at work, within the family, by virtue of a contract, etc.). The perpetrator (including an official) committing continuous physical and or mental harassment on the dependent person should be aware and presume that the latter might kill himself/herself. The liability appears at the moment when the person concerned commits suicide or attempts to do so. The punishment is deprivation of liberty from two to eight years. The application of the penalty is relatively limited due to the specifics of the circumstances and difficulty proving premeditation.

9. In 1992/93 a proposal was put forward by members of Parliament in the then Legislative Commission of the National Assembly to criminalize acts of "torture", as formulated in article 1, paragraph 1, of the Convention. That proposal was not introduced formally at a plenary session. The presumption probably was that the absence of such a crime was not a substantial lacuna in the Bulgarian criminal law as there are texts providing for the punishment of

torture in the sense of the Convention (arts. 36 (2), 92 (5), 116 (1) and (6), 127 (3), 131 (1) and (5), 142 (2) and (3), 187, 285, 287, 410-412, 416-418). There is a tendency to extend the number and scope of the norms regarding torture and other forms of cruel, inhuman or degrading treatment. Nevertheless, in order to attain a comprehensive and complete legal regulation of these specific offences, and in keeping with the commitment ensuing from the Convention, the efforts to formulate the crime of "torture" will continue so that it can be included in the Penal Code in the near future.

10. Apart from penal laws, the Bulgarian legislation, as a whole, provides for a large variety of measures to prevent torture. The main activities of the police and the security, investigation, prosecution and other law enforcement bodies, as well as mental institutions, are regulated by laws. Those are further specified by various (in terms of character, aims and significance) by-laws. In the meantime, the legislation is constantly being improved in the process of reform aimed at strengthening democracy and civil society, in accordance with article 2 (1) of the Convention. In this sense, articles 118 and 119 of the Judiciary Act are particularly eloquent. Article 118 regulates the powers of the Prosecutor's Office arising from the Constitution of the Republic of Bulgaria. Article 119 stipulates the kinds of actions and measures to be taken by the Prosecutor in discharge of his functions. It contains a detailed description of the Prosecutor's supervision over the legality of all activities at detention facilities.

11. As for the Bulgarian court, practice shows that it has become more sensitive, precise and thorough in its approach to persons who have committed torture-related crimes.

12. On the other hand, the Constitutional Court, since its establishment, has never been seized and has not pronounced itself on any matters bearing upon the Convention.

13. The adequacy of the applied legislative and administrative measures was assessed in the report of 15 September 1995, mentioned in the Introduction above, made by a delegation of the European Committee for the Prevention of Torture. That report was prepared on the basis of thorough inspection of the police and investigation structures, as well as of detention facilities and mental institutions. As a result of the actions of the relevant Bulgarian authorities in implementation of the Committee's recommendations, prevention of torture in practice is becoming much more efficient. All individuals should be unconditionally protected from torture and other forms of cruel, inhuman or degrading treatment or punishment. For obvious reasons, children and young people are most in need of such protection. In this context, on the basis of the modified national legislation and in view of the Convention on the Rights of the Child, to which Bulgaria is a party, substantial amendments and supplements were adopted at the end of 1996 to the Combating Antisocial Behaviour by Minors and Adolescents Act.

14. That Act introduced some changes in the conditions, periods and procedures of placing minors and adolescents in special homes, boarding schools and facilities for homeless children. Worth mentioning are the new provisions concerning placement in a Corrective Boarding School. The decision on placement for a period of up to three years can be made by a court or a

prosecutor under article 61 and article 64 of the Penal Code, as well as by a local Commission on Combating Antisocial Behaviour by Minors and Adolescents. In the latter case special proceedings are instituted with the mandatory participation of a parent, a teacher and a public defender. Any placement decided on by the local commission is subject to court supervision as children are actually separated from their parents and families against their will.

15. Parallel to that, new regulations on the work of the Corrective Boarding Schools and of the Pedagogical Boarding Schools (corrective educational institutions of an open type) are to enter into force after their approval. They contain special texts concerning the prohibition of means and methods degrading human dignity. They are in accordance with the spirit of the Convention and ensue from the Education Act (1991) and the Regulations for its implementation (1992) which stipulate that teachers have no right to degrade their pupils' dignity or to apply any form of physical or mental coercion on them. And finally, it should be noted that the development of society brings up a number of new problems, along with the pending ones, bearing upon the raising and bringing up of children and their social protection. In this context, the elaboration of new legislation is under consideration (Law on Protection of the Child, Law on Courts for Minors and Adolescents, etc.) in which, along with the comprehensive regulation of a great number of cases, an accent will be put on mechanisms and guarantees for preventing torture, in accordance with the Convention).

16. Special attention will be accorded to children who have nobody to look after them and who are reared in various institutions, in order to protect them from any form of violence and inhuman treatment in the sense of the Convention. This is also provided for under article 47 (4) of the Constitution of the Republic of Bulgaria.

17. It should be noted that, in the period under review, there have been no attempts by any State institution to justify torture based on extraordinary circumstances - internal instability or any other emergency (art. 2 (2) of the Convention).

18. In the past years there have not been any cases of justifying torture on the grounds of an order of a superior official or State body (art. 2 (3) of the Convention).

Article 3

19. The Bulgarian penal legislation does not contain any explicit prohibition on expelling, returning or extraditing a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture under article 3 (1) of the Convention. The existing situation has to do with the problem of the relationship between domestic and international law as provided in article 5 (4) of the Constitution. International instruments ratified according to the constitutional procedure, promulgated and effective in the Republic of Bulgaria are a part of the domestic law of the country. They supersede any domestic legislation stipulating otherwise. By virtue of this provision, the

Bulgarian legislation does not require that article 3 of the Convention be reproduced in a law as it has an immediate direct effect and can be applied by the courts. Even if there were domestic provisions stipulating otherwise, article 3 would still be effective under article 4 (4) of the Constitution.

20. Moreover, in the period under review Bulgaria acceded to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, as well as to the European Convention for the Protection of Human Rights and Fundamental Freedoms. The mechanisms for protection of persons from torture provided for in these two conventions are in force for Bulgaria.

21. In this context, it should be pointed out that in the period under review, no person was expelled, returned or extradited from the Republic of Bulgaria to a State where he would have been in danger of being subjected to torture or other forms of cruel, inhuman or degrading treatment or punishment.

Article 4

22. Some of the newly adopted numerous and substantial amendments and supplements to the Penal Code and the Penal Procedure Code have a direct bearing on the issues treated in the Convention. Traditionally, the Bulgarian legislator has always tried to ensure that the Penal Code covers all encroachments on the person relating to torture or other forms of cruel, inhuman or degrading treatment or punishment and envisage an adequate grave liability of perpetrators.

23. Most offences connected with torture are committed by officials who, on the basis of their incompetence or emotional and psychological instability, break the laws, ignore their duties or misuse their powers. Therefore greater attention should be paid to the selection, training and supervision of the actions of those officials whose work might put them in a position to commit torture or to use other forms of cruel, inhuman and degrading treatment or punishment.

Article 5

24. The principles of the Bulgarian Penal Code (arts. 3-8) as well as the procedural provisions (arts. 186, 202, 203 and 222 of the Penal Procedure Code) bearing on the obligation of the Republic of Bulgaria to take the necessary measures and to establish its jurisdiction over torture-related offences were outlined in the first report. In the period under review, no changes were introduced in the legal provisions. However, in terms of procedure, a possibility of extending the period of preliminary investigation was introduced. If the preliminary investigation is not completed within two months, the District Prosecutor can extend the period to six months and, in exceptional cases, the Prosecutor General could extend it to up to nine months (art. 222 (3) of the Penal Procedure Code).

25. As the existing norms have proved their efficiency and durability, there have been no practical difficulties with regard to the implementation of articles 3-8 of the Penal Code (in accordance with art. 5 of the Convention).

Articles 6, 7, 8 and 9

26. With regard to implementing its obligations ensuing from articles 6, 7, 8 and 9 of the Convention, the Republic of Bulgaria is a party to the following multilateral conventions.

European Convention on Extradition (in effect for Bulgaria since 15 September 1994);

Convention on the Transfer of Sentenced Persons (in effect for Bulgaria since 15 September 1994);

European Convention on Mutual Assistance in Criminal Matters (in effect for Bulgaria since 15 September 1994);

European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (in effect for Bulgaria since 1 September 1994).

27. Besides, at different times and mainly prior to its accession to the Convention, the Republic of Bulgaria concluded a number of bilateral agreements. Twenty-three of them deal exclusively with legal assistance or include criminal proceedings as well. Half of the States parties to these agreements have also signed and ratified the Convention. A transfer agreement was signed with Italy and an agreement on transfer of convicted persons with Turkey.

28. The bilateral agreements signed by Bulgaria on extradition and legal assistance in criminal proceedings do not contain special clauses on obligations to render legal assistance or to refuse to render legal assistance with regard to offences representing or containing forms of torture. Nevertheless, there are no provisions in the domestic law or in the bilateral and multilateral agreements which would be in contradiction with the above-cited texts of the Convention. Offences related to torture are grave and premeditated and that, in principle, implies extradition of the person concerned in the absence of provisions to rule it out.

Article 10

29. In connection with the implementation of obligations ensuing from the Convention, in the last few years the Bulgarian authorities have been paying serious attention to education and training of officials who, due to the nature of their functions, might be prone to violate human rights and, in particular, commit torture and other forms of cruel, inhuman or degrading treatment or punishment.

30. Questions relating to respect for human dignity and rights are a priority in the training of police officers. Qualified instructors, both from within and outside the police structures, have been engaged. Different beginners or advanced courses dealing with basic law disciplines (constitutional law, international law, criminal procedure, administrative law and procedure, criminology, etc.) treat different aspects of human rights protection. The subject "police psychology" puts the accent on the psychology

of communication in police work. It is aimed at acquiring qualifications and skills to address conflicts without resorting to physical force and aids. Of particular importance are the joint training projects with international foundations, associations, etc., as well as police authorities of other countries. The understanding now is that all police officers and sergeants should pass a psychological test and practical measures are being taken to that end.

31. In connection with the training of the staff of mental institutions, periodic courses for psychiatric nurses have been organized for the last few years at the National Centre for Complex Human Studies of the Ministry of Health with the assistance of the Neuro-Science and Behaviour Foundation. The West Lambeth Community Care National Health Service Trust of Great Britain expressed its interest in cooperation in that sphere and guidelines for joint activities were mapped out by its representatives and the Ministry of Health. In addition, a manual of psychiatric nursing, a translation of Susan Ritter's book Manual of Clinical Psychiatric Nursing was published with the financial support of the Geneva Initiative on Psychiatry, the International Foundation for Abolition and Prevention of Political Abuse of Psychiatry. The Manual was approved by the Ministry of Education as a training aid for psychiatric nurses and distributed in all psychiatric institutions.

32. The Bulgarian authorities believe that practical issues relating to detention are of special importance, such as the methods of interrogation of arrested, suspected or charged persons, the use of video and audio recording, registration of detained persons in daily record books, etc. A detailed Instruction on Application of the Penal Procedure Code has been worked out to that end. This Instruction is a joint action of the Prosecutor General's Office, the National Investigative Service and the National Police Directorate; it further regulates the rights and obligations of each institution, as well as the powers of all institutions in their concerted work in search of solutions to these issues.

33. The training of officers serving at prison establishments is effected by special courses for beginners and periodic retraining. Legal, psychological and pedagogical subjects dominate the study programmes of these courses. The skills of interpersonal communication and building up positive relations with persons who have been deprived of their liberty are the main goals of these programmes. This will not only diminish the risk of ill-treatment but will enhance control and security.

34. Other general and specific measures for ensuring dissemination of information on the work standards of enforcement authorities, medical staff and officers in arresting, interrogating and treating a detainee or a convicted person can also be mentioned:

(a) Translating into Bulgarian of a collection of international instruments on human rights containing the Convention and eight other acts on human rights in the administration of justice and the protection of persons subject to detention or imprisonment;

(b) Bringing laws and by-laws into line with the Convention;

(c) Daily instructions to the staff on duty;

(d) Informing the public, mainly through the media, by raising topics and specific cases with a view to fostering public intolerance of torture;

(e) Supplying prison and other special libraries with a sufficient number of copies of the European Convention for the Prevention of Torture, the explanatory report, the Additional Protocls to the Convention and expert comments. One of the obligations of social workers is to explain its provisions to persons deprived of liberty.

35. Bringing the provisions of the Convention to the knowledge of more people (popularizing the Convention in the broadest sense) is an additional way of preventing torture and other cruel, inhuman or degrading treatment or punishment.

36. Periodic reviews of the rules, instructions, methods and practices in interrogation, detention and treatment of suspected, accused and convicted persons are a standing activity of the Bulgarian authorities. Pursuant to the Ministry of the Interior Act, police authorities can, under certain conditions, detain a person for up to 24 hours, conduct a personal search, inspect personal belongings, premises and vehicles, use subsidiary physical force, auxiliary aids and, finally, arms, as the last resort. Any interrogation of an accused or suspected person, a witness or an expert is to be conducted in accordance with the procedure established by the Penal Procedure Code guaranteeing voluntary cooperation and authenticity of explanations and testimony. No evidence is accepted which has not been acquired or prepared in compliance with the provisions and procedures envisaged in the Penal Procedure Code.

37. In 1993 the Minister of Justice issued Ordinance No. 12 on the Situation of Persons Held in Detention Facilities. The provisions therein were introduced in line with the general tendency of democratization of legislation and full protection of human rights.

38. It should be noted that, for the time being, it is not planned to set up an independent body to monitor whether the conditions of detention, arrest or deprivation from liberty in general are in accordance with the provisions of the Convention. Neither is it planned to introduce a system of protection, including an independent inquiry on the basis of information about torture cases. These functions are successfully carried out by activists of national and international non-governmental human rights organizations. In general, their activities are multifaceted and intensive while their influence on institutions (including on the implementation of the Convention) is on the rise.

39. According to the internal regulations of the National Investigative Service's detention facilities, all detainees are entitled to medical care. Physicians or medical auxiliaries are employed by all district investigative services. They mandatorily examine each newly arrived detainee or any other detainee if a complaint has been made. The results of the first medical examination are put down in writing and kept in confidence. In addition, in

every case when that is necessary, the patient is taken for an examination or treatment by specialists in the respective district hospitals or in the specialized hospital of the Ministry of the Interior in Sofia.

40. In recent years, specific measures have been taken to improve health-care services in prison establishments on the basis of the Enforcement of Punishments Act, of the Regulations for its implementation and of other acts. All new prisoners are subjected to a psychological test and sanitary treatment, as well as to a thorough medical examination on the basis of which they are accommodated and allocated work. Health-care cards are made for all persons suffering from diagnosed diseases and subject to observation. Such cards are also compulsory for healthy prisoners who are to remain in prison for over one year. When a prisoner is moved to another establishment his card is sent with him. The prison directors and the medical personnel have been instructed to enhance the control and improve the organization with regard to ensuring confidentiality of medical data on prisoners. In order to improve the psychiatric care of prisoners, five prisons have employed their own psychiatrists while other prisons rely on psychiatrists of civil health-care institutions. A multifunctional hospital has been built at the central prison in Sofia. As for suicides in prison, there is no information pointing to cases of suicides having been caused by torture. Studies show that the average number of prison suicides is three to four annually. Reasons may be different and not always easy to identify. Suicides are most often caused by depression due to failed marriages or family problems, protests of defendants, personal mishaps, etc. There are also cases of prisoners who have committed suicide while on furlough.

41. The religious support, or the so-called "healing of the soul", has become very popular in prison establishments in the last few years. Priests went into prisons, special rooms were equipped for that purpose, chapels were built in prison yards and other necessary conditions were created for religious rituals and services.

42. As far as persons taken into custody by the police are concerned, there is no normative act expressly providing for a medical examination or doctor's access to the person in custody. In practice, whenever that is necessary, police officers call a doctor or a team from the closest hospital. The question of introducing a mandatory doctor's assessment in such cases has not yet been put to discussion. Introduction of regulations with regard to doctors' access to a person held in custody by the police is under consideration now. The medical examinations could also be done in private, analagous to the act of meeting a lawyer, while the results of the examination, the complaints of the detainee and the conclusions of the physician in writing could be made available to the detainee and his lawyer.

43. The above-mentioned measures, as well as the monitoring mechanisms at detention facilities, including inspections by the European Committee for the Prevention of Torture, represent a serious attempt to guarantee that torture will not take place and will eventually be eliminated. Still further legal guarantees to that end are provided by the drafts of a new Penal Code, a new Penal Procedure Code and a new Law on Enforcement of Punishments.

Article 12

44. Cases of torture in the sense of the Convention have taken place in the period 1992-1996. Nevertheless, article 287 of the Penal Code has not been implemented for two reasons: first, its scope is relatively limited with regard to the nature of the victim and the subjective aspect; second, an act under article 287 of the Penal Code often causes injury and departs from the norms of murder or bodily injury, and the fact of torture is accepted by the court as an aggravating circumstance in deciding on the punishment.

45. It should be emphasized that the number of officially registered offences is smaller than that of those really committed as there is latent crime. The offence is committed discreetly, the victim is often dependent on the official in question and is afraid to report the case. Therefore, the data indicated below are not exhaustive.

46. According to the information from the Administration of Detention Facilities, in 1994 and 1995, a total of 69 complaints of physical ill-treatment or moral harassment of prisoners by prison staff were lodged. A thorough investigation of the complaints established that only three of them were well grounded. As a result of the proceedings instituted, one supervisor was turned over to the Prosecutor's Office for penal proceedings and another three were subjected to disciplinary measures.

47. In the period 1 January 1992-30 August 1995, there were 134 cases of continued detention after the expiry of the sentence as follows: 1992 - 28 cases, 1993 - 31 cases, 1994 - 39 cases, and until 30 August 1995 - 36 cases. The reasons were mostly, as follows: late announcement of sentences; imposition of a punishment or correction of an imposed punishment by a second instance; delayed cumulation of sentences due to the prison administration. The period of imprisonment was exceeded by several days to two months.

48. The statistics show the following: in 1992 22 cases of overextended sentences were caused by the court, 4 by the Prosecutor's Office and 2 by the prison administration. In 1994 the respective figures were 20, 8 and 0.

49. In recent years there were various cases of physical and psychological ill-treatment of young soldiers by older soldiers and officers in the barracks. Most often disciplinary punishments were imposed but the most flagrant offences, which had led to bodily injury or death, were taken up by a court.

50. As for ill-treatment and cruelty, including torture, practised with regard to detainees at police stations, the official statistics indicate that in the period from the beginning of 1991 to May 1997 there were 46 offences committed by police officers of the police and the Ministry of the Interior. In most cases physical force was used illegally by sergeants and officers against suspects and, within the regular forces of the Ministry of the Interior, against recruits. Four persons died as a result of beatings. There was one homosexual assault and one murder.

51. In this context, 10 inquiries were held against 10 sergeants and 8 officers. Two sentences were passed and five officers were deprived of liberty. The other cases are still being processed. Disciplinary proceedings were instituted in all cases. Five army officers and six army sergeants were disciplined and dismissed, as were four officers and five sergeants from the regular forces of the Ministry of the Interior. The media widely publicized the death of Christo Christov who was cruelly beaten by officers from the 7th Regional Police Office, Sofia, which constituted a crime under article 116 (2) and (6) of the Penal Code. The court found three lieutenants of the National Police guilty of murdering, deliberately and cruelly, Mr. Christov and sentenced them to long terms of imprisonment: between 18 and 20 years. Three more police officers were sentenced to different terms of imprisonment for misuse of power.

52. These cases of torture were quickly and impartially investigated and finalized by court proceedings. In prtactice, nobody participating in torture was unjustifiably released from liability.

53. It cannot be denied that there are problems in Bulgaria regarding protection against torture. Various legislative, administrative, legal and organizational measures are undertaken to overcome them. An important contribution is made by the numerous Bulgarian and foreign non-governmental human rights organizations. Their inquiries, findings and recommendations are taken into consideration by the Bulgarian authorities in their efforts to improve the situation.

Article 11

54. Article 45 of the Constitution of the Republic of Bulgaria expressly stipulates the right of citizens to lodge complaints with the State authorities. This right and the guarantees for its exercise have been further developed in the laws and by-laws.

55. Whenever a person alleges that he or she has been subjected to torture representing a crime in the sense of the Convention, he or she can communicate that circumstance to investigative, Prosecutor's or police bodies. If the information provided in the application is sufficient according to article 186 of the Penal Procedure Code, preliminary proceedings are instituted against the indicated perpetrator and the penal procedure takes its course. Otherwise, when there are no sufficient data for institution of preliminary proceedings and no urgent investigative actions are necessary, the respective units of the Ministry of the Interior and other administrative bodies conduct a preliminary inspection within the shortest possible time and notify the Prosecutor's Office thereof (article 191 of the Penal Procedure Code).

56. Besides the national regulations concerning the right to complaints in general and with reference to article 13 of the Convention, there are special international legal possibilities for the persons alleging that they were subjected to torture or other forms of cruel and degrading treatment. Among them, the most important is the possibility under the European Convention on Human Rights, to which Bulgaria is a party. Pursuant to article 25 of this Convention, each person alleging that he or she is a victim of a human rights violation, including torture, inhuman or degrading treatment and punishment,

may address his complaints to the European Commission on Human Rights and expect the European Court of Human Rights to act on them. The right to individual complaints under article 25 of the European Convention is widely publicized in various publications and commentaries explaining, in detail, who may lodge a complaint, how and when, and what is the further procedure.

57. The Republic of Bulgaria has undertaken a commitment not to interfere with the exercise of that right. On the other hand, any person who has filed a complaint with the European Court is protected against intimidation in accordance with the general procedure.

Article 14

58. In accordance with article 14 of the Convention, the Republic of Bulgaria, as a party to the Convention, has ensured the right of victims of torture to be indemnified in a fair and adequate way, including means for their fullest possible rehabilitation. Many normative acts, including laws, resolutions of the National Assembly, ordinances, etc. were adopted during the period under review. They provided the legal grounds for undertaking considerable actions for a practical solution of these questions in each specific case.

59. The most comprehensive measure to that end is the Law on Political and Civic Rehabilitation of Persecuted Persons of 1991. It regulates, in a most exhaustive way, hypotheses envisaging the political and civic rehabilitation of persons who were unlawfully persecuted because of their origin or political and religious beliefs in the period 12 September 1944-10 November 1989. Article 2 of the Law indicates the persons who are entitled to a lump sum as an indemnification for property and non-property damages suffered. Under article 3, when the persons concerned are dead, their heirs are entitled to indemnification. The size of the compensation and the procedure are outlined in the Ordinance of 1992 on application of article 4 of the Law. Compensations are paid in cash or in vouchers to be used for purchasing shares and other property subject to privatization.

60. A central and a number of regional commissions for political and civic rehabilitation were set up on the basis of the Law and the Ordinance in order to establish the circumstances related to indemnification. Prior to the adoption of the Law and the Ordinance, the National Assembly adopted several decisions on political and civic rehabilitation of persons who were indicted or persecuted unlawfully. In practice, all legal, organizational and financial prerequisites were created for a full rehabilitation and fair compensation. A number of laws on amnesty and restitution of seized property were passed. The 1988 Law on the Liability of the State for Damages Caused to Citizens remained in force in the period under review. It stipulates liability for damages incurred due to unlawful acts, actions or inaction of State bodies and officials in connection with administrative activities as well as liability for acts of human rights institutions or legal bodies. According to the Law, the indemnification covers all property and non-property damages which are a direct and immediate consequence of the harm done by unlawful official conduct. The inheritance of the right to indemnification has also been provided for as well as the procedure and conditions of making a claim and hearing a case.

61. Therefore, article 14 of the Convention is incorporated and specified in the Bulgarian legislation and no other special regulations are needed to that end.

Article 15

62. There is no special indication in the Penal Procedure Code that statements made as a result of torture should be accepted as evidence that such a statement was made. This is a private hypothesis proceeding from the Convention. But the absence of an express text in the law cannot be accepted as an essential omission. By the fact of rat fication of the Convention and its entry into force, it has become an integral part of the Bulgarian legislation and supersedes any domestic norms in contradiction with the whole Convention and, in particular, with its article 15.

63. Under article 84 of the Penal Procedure Code, "evidence in the legal proceedings may be factual data related to the circumstances in the case, such that contribute to their elucidation and are ascertained by the procedure provided for in this Code". Accordingly, if the victim or any other person makes a statement accusing a person of committing torture, such statement is mandatorily attached to the other evidence with regard to the case and are interpreted by the court along with it. And if statements made in accordance with the respective procedure have not been clarified or, unjustifiably, have not been accepted as established, these are grounds for revocation or modification of the sentence by the second instance (article 328 of the Penal Procedure Code) or for "reopening penal cases due to newly found circumstances" (article 362 of the Penal Procedure Code). In the last hypothesis the court only revokes the sentence and returns the case for retrial (article 364, paragraph 1, of the Penal Procedure Code).

64. The principle of the inadmissibility of the use of torture to obtain evidence is laid down in article 31 (2) of the Constitution of the Republic of Bulgaria, which stipulates that "no one shall be forced to plead guilty and no one shall be convicted solely by virtue of a confession". In accordance with article 91 of the Penal Procedure Code, the accusation and the sentence may not be based on the confessions of the accused and do not exempt the corresponding bodies from their obligation to collect other evidence in the case.

Article 16

65. With reference to the obligation ensuing from article 16 of the Convention, article 29 (1) of the Constitution of the Republic of Bulgaria expressly states that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment".

66. A number of texts in the Penal Code specify the notions of article 16 of the Convention, namely: "causing physical suffering or humiliating human dignity" (art. 36 (2)), "cruel treatment or systematic humiliation" (art. 127 (3), "a manner which is painful or dangerous to the health of the victim" (art. 142 (3)), "what is degrading for the honour and dignity of another person" (art. 146 (1)), "a shameful circumstance" (art. 147 (1)), etc.

67. By 1 August 1995 the total number of persons deprived of their liberty in prisons and corrective institutions was 8,920. Of them, 6,242 were convicts, 1,616 were defendants and 1,062 were under investigation.

68. It should be noted that the number of detainees is bigger than the capacity of the prison establishments. Living conditions are not good. Improvements should be made, namely expanding housing areas and improving sanitary facilities, bathrooms and washing rooms. Still, it would be an exaggeration to say that the existing conditions in these establishments contain elements of "other forms of cruel, inhuman or degrading treatment or punishment" in the sense of the Convention.

II. CONCLUSION

69. The Bulgarian authorities are confident that counteracting torture and other forms of cruel, inhuman or degrading treatment should be a constant concern of State institutions and civil society. Therefore, efforts are made not just to react adequately in order to bring perpetrators of torture to justice but, first and foremost, to take various measures to forestall such acts.

70. In this context, the Bulgarian authorities are determined to promote all legal and administrative prerequisites in order to guarantee the personal inviolability of the human being and the protection of its rights, and to prevent instances of violation of these rights, including torture.